



DEPARTMENT OF LABOR

Employment and Training Administration

Comment Request for Information Collection for Form ETA 9033, Attestation by Employers Using Alien Crewmembers for Longshore Activities in U.S. Ports and Form ETA 9033-A, Attestation by Employers Using Alien Crewmembers for Longshore Activities in the State of Alaska; Extension with Revisions

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. 3506(c)(2)(A)]. This program helps ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, ETA is soliciting comments concerning the collection of data about Form ETA 9033 Attestation by Employers Using Alien Crewmembers for Longshore Activities in U.S. Ports (OMB Control Number 1205-0309), which expires October 31, 2013, and Form ETA 9033A, Attestation by Employers Using Alien Crewmembers for Longshore Activities in the State of Alaska (currently under OMB Control Number 1205-0352), which expires October 31, 2014. These forms are used by employers to request permission to use foreign crewmen at U.S. Ports for longshore work.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit written comments to William L. Carlson, Ph.D., Administrator, Office of Foreign Labor Certification, Room C-4312, Employment & Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210. Telephone number: 202-693-3010 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1-877-889-5627 (TTY/TDD). Fax: 202-693-2768. E-mail: ETA.OFLC.Forms@dol.gov subject line: ETA 9033 and ETA 9033A. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed above.

SUPPLEMENTARY INFORMATION:

I. Background

The information collection is required by section 258 of the Immigration and Nationality Act (INA) (8 U.S.C. 1288) and 20 CFR 655 Subpart F. The INA generally prohibits the performance of longshore work by foreign crewmembers in U.S. ports. 8 U.S.C. 1288(a). However, the INA contains an exception to this general prohibition where the use of foreign crewmembers is permitted by an applicable collective bargaining agreement or otherwise is a prevailing practice at the U.S. port. 8 U.S.C. 1288(c)(1). Under the prevailing practice exception, before any employer may use foreign crewmembers to perform longshore activities in U.S. ports, it must submit an attestation to the Secretary of Labor containing the elements required by the INA. 8 U.S.C. 1288(c)(1)(B). The INA further requires that the

Secretary of Labor make available for public examination in Washington, DC a list of employers that have filed attestations and for each of these employers, a copy of the employer's attestation, and accompanying documentation received by the Secretary. 8 U.S.C. 1288(c)(4). Similarly, the INA permits foreign crewmembers to perform longshore work in the State of Alaska if the employer complies with certain attestation requirements. 8 U.S.C. 1288(d).

The information is being collected to ensure compliance with the INA's requirements that employers must make certain attestations as a condition precedent to the employer's use of foreign crewmembers to perform longshore activities in the U.S. The attestations required by section 258 are collected by the Secretary of Labor through his or her designee, the Employment & Training Administration, on Form ETA 9033, Attestation by Employers Using Alien Crewmembers for Longshore Activities in U.S. Ports (OMB Control Number 1205-0309) and Form ETA 9033A, Attestation by Employers Using Alien Crewmembers for Longshore Activities in the State of Alaska (currently under OMB Control Number 1205-0352).

Previously, the Department of Labor (Department) accounted for the hourly burdens for each of these information collections under two different OMB control numbers - 1205-0309 and 1205-0352. The Department is proposing to merge the two OMB control numbers into one (1205-0309) for purposes of efficiency and clarity for both the Federal Government and the public and discontinuing the other (1205-0352).

The revisions to the forms are designed to collect better information for contacting the employer and/or agent such as email. They are also meant to make the form easier to read and complete, and provide more thorough instructions.

II. Review Focus

The Department is particularly interested in comments that:

- evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

In order to meet its statutory responsibilities under the INA, the Department needs to revise, extend, and merge two existing collections of information used by employers wishing to employ alien crewmembers to do longshore work in U.S. ports under either the prevailing practice exception or the Alaska exception.

Type of Review: extension with revisions

Title: Form ETA 9033, Attestation by Employers Using Alien Crewmembers for Longshore Activities in U.S. Ports and Form ETA 9033A, Attestation by Employers Using Alien Crewmembers for Longshore Activities in the State of Alaska

OMB Number: 1205-0309 and 1205-0352

Affected Public: Business or other for-profits.

Form(s): ETA-9033 and ETA-9033A

Total Annual Respondents: 7

Annual Frequency: 1

Total Annual Responses: 7

Average Time per Response: 3 hours 15 minutes

Estimated Total Annual Burden Hours: 23

Total Annual Burden Cost for Respondents: 0

Comments submitted in response to this comment request will be summarized and/or included in the request for OMB approval of the ICR; they will also become a matter of public record.

DATED: July 31, 2013

Eric Seleznow,

Acting Assistant Secretary for Employment and Training, Labor.

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